

# Notice of Allowability

Application No.

10/781,675

Examiner

Patricia C. Mallari

Applicant(s)

CHO ET AL.

Art Unit

3735

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final response filed 8/1/06.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### REASONS FOR ALLOWANCE

Claims 1-11 are allowed.

The following is an examiner's statement of reasons for allowance:

US Patent No. 6,269,314 to litawaki et al and US Patent No. 5,924,996 to Cho et al. represent the most relevant prior art. litawaki teaches a measurement portion for obtaining a plurality of measurement values (col. 3, lines 29-32 and lines 42-47; col. 3, line 65-col. 4, line 6 of litawaki), a selecting means for selecting an able-bodied person or a diabetic patient (fig. 6; col. 4, lines 7-10 and lines 42-59; col. 5, lines 5-10; col. 7, lines 29-33 of litwaki), and a calculation portion for calculating a blood sugar level based on a measurement value obtained in the measuring portion and the result of the selection by the selecting means (figs. 11 & 14; col. 5, line 1-67 of litawaki). The measurement portion of litawaki lacks obtaining the measurement values related to a body surface and a measurement environment including at least a measurement value related to heat measurement and the calculation portion of litawaki calculates the blood sugar level based on a single measurement value rather than a plurality of measurement values as claimed.

Cho teaches a measuring portion for measuring blood sugar values based on heat radiating from a user's skin and a temperature of the environment (col. 6, line 66-col. 7, line 27 of Cho), wherein such measurement values are clearly related to heat measurement. While it would have been obvious to one of ordinary skill in the art at the time of invention to use the measuring portion of Cho in place of the measuring portion of litawaki, as it would merely be the substitution of one known means for obtaining

blood sugar values for another, the combination would still lack a calculation portion that calculates the blood sugar level based on a *plurality* of measurement values, as claimed or a step of calculating the blood sugar level using the obtained plurality of measurement values, as claimed.

Therefore, the prior art of record fails to teach or fairly suggest a blood sugar level measuring apparatus or a blood sugar level measuring method wherein a blood sugar level is calculated using the obtained plurality of measurement values, in combination with all of the other limitations of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia Mallari  
Patent Examiner  
Art Unit 3735

  
**ROBERT L. NASSER**  
**PRIMARY EXAMINER**